United Nations CRPD/C/SR.368

Convention on the Rights of Persons with Disabilities

Distr.: General
27 February 2018

Original: English

Committee on the Rights of Persons with Disabilities
Nineteenth session

Summary record of the 368th meeting
Held at the Palais des Nations, Geneva, on Tuesday, 20 February 2018, at 10 a.m.

Chair: Ms. Degener

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The meeting was called to order at 10 a.m.

Consideration of reports submitted by parties to the Convention under article 35 (*continued*)

Initial report of Nepal (continued) (CRPD/C/NPL/1, CRPD/C/NPL/Q/1 and Add.1)

1. *At the invitation of the Chair, the delegation of Nepal took places at the Committee table.*

Articles 11–20 (continued)

2. **Mr. Upadhaya** (Nepal) said that Nepal had already taken steps to protect vulnerable groups, including persons with disabilities, during emergencies or natural disasters. Development programmes were being harmonized with a view to creating more inclusive and vigilant communities, while protection strategies aimed to provide access to medical and psychosocial services in a disability-inclusive manner. Those strategies, which included provision for focal points for persons with disabilities, had made it possible to identify the total number of such persons who had been affected by the 2015 earthquake and to provide them not just with basic needs such as shelter, food, health care and sanitation, but also with assistive devices such as wheelchairs, visual aids and hearing aids.

3. Persons with disabilities enjoyed full legal capacity in all aspects of their lives, on an equal footing with others. Training programmes had been conducted and booklets published in Braille to inform persons with disabilities how they could access justice and what facilities were available to them. Forced sterilization was illegal in Nepal and the Ministry of Health and Population was drafting a mental health bill that would outlaw involuntary medical treatment of any kind. The Government had worked with organizations of persons with disabilities to run counselling, treatment, rehabilitation and reintegration programmes for persons with psychosocial impairments. Furthermore, hospitals received regular budget allocations for the prevention and treatment of psychosocial disabilities at the grass-roots level, and mental health medication had been included in the list of essential drugs that were available at local health facilities.

4. The Government had allocated a total of 120 million rupees for its various disability-related programmes: 20 million for community-based rehabilitation, whereby persons with disabilities received assistance in their own communities rather than in institutions; 10 million for the distribution of assistive devices; 3 million to set up helpdesks; and 3 million for training.

5. **Mr. Ghimire** (Nepal) said that, under the 2017 Disability Rights Act, persons with disabilities were able to participate at all stages of the policy development process, from formulation, adoption and implementation to monitoring and evaluation. Having first registered under the Associations Registration Act, organizations of persons with disabilities could also participate in the process. The Disability Rights Act included provision for a federal-level steering committee and local-level coordination committees which, with local government, shared responsibility for ensuring that such participation was effective.

6. Persons with disabilities who had reached the age of majority — which, under the new Civil Code, was 18 — had full legal capacity under the law and the same legal rights and obligations as non-disabled persons. The right to equality precluded discrimination on any grounds, including that of disability; additionally, provision was made for certain special measures of positive discrimination intended to empower persons with disabilities and promote their development. That principle, which had been upheld by the Supreme Court, was based on "reasonable classification" according to which intelligible differentiae could be used to enhance equality through equity.

7. Access to justice was a multidimensional cross-cutting issue, which was particularly challenging for a country like Nepal. Nonetheless, efforts were being made to build capacity among both rights holders and duty bearers, to remove any and all barriers and to ensure that justice was available and affordable, also for persons with disabilities. In 2015, the Supreme Court had established the Access to Justice Commission, which worked to

facilitate recourse to law for vulnerable people, and a plan of action had been launched with a view to achieving Sustainable Development Goal 16. There was a mandatory requirement for new court buildings to be disability-friendly while existing ones were gradually being adapted.

8. The obligation to undergo a means test before accessing free legal aid was waived in the case of persons with disabilities who, under the 2017 Disability Rights Act, were automatically eligible for such aid. In addition, mobile legal aid clinics were held in collaboration with civil society groups. In order to deliver those services more effectively, the Government was developing an integrated legal aid policy in consultation with organizations of persons with disabilities. A survey conducted in 2015 had shown that 87.7 per cent of the population was unaware of the legal aid delivery mechanism. Measures had been devised to address that shortcoming, including human rights education and a series of training and orientation programmes for court officials.

9. In 2017, 329 judges and court officials had been sensitized to the rights of vulnerable groups, including persons with disabilities. In addition, the Ministry of Justice was conducting local-level human rights education programmes, in which persons with disabilities were also represented. In 2016, 93 local-level programmes had been held with the participation of 16,434 persons, including persons with disabilities. Awareness-raising programmes were being run with the support of community based organizations, organizations of persons with disabilities and the media, and there were plans to provide all 28,208 locally elected representatives with training on the rights of persons with disabilities.

10. Since 2015, the Supreme Court had enforced the provision contained in both the Code of Criminal Procedure and the Code of Civil Procedure whereby investigators and the courts could call on the services of interpreters — funded by the State — when taking a statement from an accused person or witness with a speech or hearing impediment. Reasonable accommodation in access to justice was also being promoted in other ways, such as disability-friendly enquiry desks within courts and the release on bail of persons with disabilities accused of offences that attracted less than 10 years' imprisonment. In addition, guardians could file a case on behalf of a person with a disability and judgments could be revised on the grounds of lack of representation of a person with a disability. Penalties for rape were more severe when the victim was a person with a disability.

11. Persons with mental impairments were treated in community hospitals or health centres where they received free medication and counselling as well as rehabilitation and family reunion services. Provisions contained in early legislation whereby persons with mental disabilities could be held in jail for treatment or protection had long ago been abolished by a ruling of the Supreme Court. The Government was undertaking a comprehensive review of legislation with a view to eliminating derogatory terminology or provisions and to bringing laws into line with the relevant human rights standards. In the same way, the mental health bill, which was currently in the process of being drafted, would take due account of concerns raised by the Committee and it would not be based on the medical model.

12. The 2017 Disability Rights Act promoted supported rather than substitute decision-making. Under both civil and criminal law, any document or deed regarding a person with a visual or speech impediment could be executed on that person's behalf by his or her guardian, only in the presence of the person concerned.

13. **Mr. Paudyal** (Nepal) said that persons with visual or speech impairments not only had to be present when a document or deed was being executed in their name, but they also had to give their express consent. Isolated cases of substitute decision-making might still exist but they were very few and decreasing, and the State was firmly committed to the model of supported decision-making. One recent initiative of the Supreme Court's Access to Justice Commission had been to make information about the rights enshrined in the Constitution, domestic law and the Convention, as well as information on procedures relative to accessing justice, available in Braille and to place it in the public domain.

14. **Ms. Aryal** (Nepal), responding to questions regarding the impact of the State party's three-year interim plans, said that the implementation of the consecutive eleventh, twelfth and thirteenth plans had led to a higher net rate of enrolment in primary school, an increase

in life expectancy and a reduction in absolute poverty. Major legal and institutional change had come about during that time, including the promulgation of the Disability Rights Act, which had replaced the previous welfare-based disability legislation. A community-based rehabilitation programme had been implemented across the country, helping to mobilize resources at the local level and increase access to health care, education, counselling, awareness-raising activities and rehabilitation services for persons with disabilities. Government research into the impact of the programme had found it to be successful in raising awareness of rehabilitation services among persons with disabilities and coordinating counselling among government agencies, civil society and organizations of persons with disabilities.

15. The Ministry of Education ran a number of special schools, resource classes, integrated schools and schools for persons with sensory, physical and intellectual impairments, and the Government had established an assessment centre to collect information on children with disabilities and to assess and respond to their educational needs.

16. Government grants were awarded to organizations of persons with disabilities to enable them to provide mobile services to persons with disabilities living in remote areas and to distribute assistive devices. The Ministry of Women, Children and Social Welfare had introduced a digital registration system through which persons with disabilities could register under the category to which they had been assigned by the Government for the distribution of social security allowances. Furthermore, the Government had introduced a quota on the recruitment of persons with disabilities into the civil service: 628 persons with disabilities had become civil servants since the system had been introduced in 2007/08.

17. Help desks had been established throughout the country to provide information on government services, which now included rehabilitation and the rescue and relief of persons at risk. Although the Government did not promote institutionalization through any of its policies or plans, some living arrangements had been made for participants in counselling, treatment or training relating to the management of daily life, particularly for persons with psychosocial disabilities and other vulnerable groups. However, participants were reintegrated into their families and the community once their counselling or treatment had come to an end.

18. **Mr. Gautam** (Nepal), responding to questions regarding legal capacity, said that in addition to the right to equality and non-discrimination established under the Nepalese Constitution, articles 6, 7 and 8 of the Disability Rights Act established that persons with disabilities had the right to participate in political, social, economic and cultural life on an equal footing with all other members of Nepalese society. All persons over the age of 18, the age of majority, acquired full legal capacity and could enter into any form of civil relationship. Only those unable to comprehend their legal responsibilities did not acquire full legal capacity. Before entering into a civil relationship, both parties were required to give their consent. Furthermore, medical treatment could only be undertaken with the consent of the patient, except when obtaining consent was impossible, for example if the patient had lost consciousness. Failure to acquire consent before performing medical treatment carried a sentence of 3 years' imprisonment, according to article 270 of the Civil Code.

19. Persons with disabilities had the right to security, the right to be rescued and the right to protection under article 10 of the Disability Rights Act. The Disaster Risk Reduction and Management Act required Government authorities to identify communities at high risk, to design programmes to mitigate risks for those communities and to set minimum standards of relief with special regard for vulnerable groups, including persons with disabilities. Furthermore, the National Reconstruction Authority worked to ensure that the specific needs of persons with disabilities during disaster events were taken into account during construction work on public infrastructure.

20. With regard to the question that had been asked about rape cases involving victims with disabilities, he said that perpetrators of the rape or gang rape of women with disabilities were liable to 10 additional years of imprisonment, on top of the sentence handed down for rape or gang rape without aggravating circumstances. Of the 48 cases of

rape reported in the last three months of 2017, three had involved victims with disabilities. Some of the accused had been arrested and remanded in custody. Those who remained at large were being actively sought by law enforcement officers.

Articles 21–33

21. Mr. Ishikawa said that he wished to know whether the State party had conducted surveys on the extra cost burden of ensuring a minimum standard of living for persons with disabilities, which should be taken into account when calculating social security allowances. With regard to article 29 of the Convention, he was interested to know whether it was possible for the blind to cast their votes using Braille. In reference to article 31, he said that he would welcome information on whether the State party had plans to conduct any national surveys disaggregated by age, sex, occupation, ethnicity, religion, urban law and disability or non-disability.

22. **Mr. Kim** Hyung Shik said that the delegation should refrain from using the abbreviation "PWD" when referring to persons with disabilities and endeavour to employ the terminology used in the Convention. In respect of article 31, he wondered whether the delegation was familiar with the Washington Group on Disability Statistics. Turning to article 32, he asked whether the delegation could provide examples of the ways in which disability-inclusive development had been made a core element of the State party's international cooperation policy. He would also appreciate examples of the ways in which the involvement of persons with disabilities in the planning, implementation and monitoring of disability-inclusive development was ensured and examples of projects that had had tangible benefits for persons with disabilities.

23. Regarding article 33, he asked whether the delegation could give details of the role played by the National Disability Coordination Committee in the implementation of the Convention. It would be interesting to know whether the Committee in question had government employees or members of organizations of persons with disabilities among its members; whether seats on the Committee were permanent or rotational; and whether expertise and experience were criteria for appointment to the Committee. He appreciated the role of the Ministry of Women, Children and Social Welfare in implementing the Convention, but wished to know how effective it had been in mainstreaming disability-related issues across the Government's other ministries.

24. **Mr. Langvad** said that, in paragraph 45 of the State party's replies to the list of issues (CRPD/C/NPL/Q/1/Add.1), it was mentioned that special and residential schools would be gradually transformed to serve as resource centres for inclusive mainstream schools under the School Sector Development Plan 2016–2023. He wondered whether the delegation could provide further information on that strategy, including information regarding the timetable for its implementation and any budgetary allocations. He wished to know whether current domestic legislation, including the 2017 Disability Rights Act, guaranteed the right to inclusive education as an enforceable right. He also wished to know whether the State party had adopted any initiatives to improve the quality of inclusive education in classrooms, and of support provision and teacher training across the education system, in accordance with the Committee's general comment No. 4 and Sustainable Development Goal 4.

25. With regard to article 25, he would appreciate information on whether the State party had taken steps to implement the Nepalese Supreme Court's directive on the need to widen the availability of specialized reproductive health services for persons with disabilities, and whether it had adopted any initiatives to ensure the equal enjoyment of reproductive rights by persons with spinal cord injuries.

26. Regarding article 33, he would welcome further information on how persons with disabilities, including women and children with disabilities, were consulted and actively and meaningfully involved through their representative organizations in the State party's efforts to implement the Convention and how funding was allocated in that regard.

27. **Mr. Rukhledev** said that he wished to know what status sign language held in Nepal and whether the Government ran any programmes to train sign language interpreters or related certification systems. It would be interesting to know to what extent information

and communication technologies were accessible to persons with sensory impairments in the State party. With regard to article 33, he would welcome information on whether the Government ran any programmes to support the involvement of persons with disabilities in sport, creative and cultural activities and tourism.

28. **Mr. Chaker** said that he wished to know whether all public information was accessible to persons with disabilities and available in sign language, Braille and other alternative formats and modes of communication.

29. **Mr. Lovászy** said that he welcomed the State party's consideration of a bill on mental health, but would appreciate more information on the consideration process, specifically regarding whether it was transparent and whether non-governmental organizations (NGOs) were involved in it. It would be interesting to be provided with concrete figures on the achievement of bachelor's and master's level degrees by persons with disabilities and to know whether the State party had any goals for further improvement in that area. He would also appreciate further information on the effectiveness of the Income Tax Act described in paragraph 51 of the State party's replies to the list of issues, complete with figures. Lastly, he wondered whether the delegation could provide any further information on how the State party had achieved such a notable increase in the number of persons with disabilities employed as civil servants.

30. **Mr. Buntan**, noting that the delegation had not yet provided statistics on the employment of persons with disabilities in the private sector, said that he would appreciate more information on the effectiveness of the quota system for employment as it applied to women with disabilities, persons with intellectual and psychosocial disabilities and indigenous persons with disabilities.

31. He wondered how the State party ensured the participation in political and public life of persons who had been deprived of their legal capacity and whether it had established a time frame for ratification and implementation of the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled.

32. **Mr. You** Liang asked what legislative and regulatory measures had been taken to protect the rights enshrined in the Convention and whether sanctions were imposed for non-compliance with the relevant laws and regulations; how disability issues had been incorporated into the national programme for the achievement of the Sustainable Development Goals; and what measures had been taken to implement the third Asian and Pacific Decade of Persons with Disabilities.

33. **Mr. Alsaif** asked what steps had been taken to ensure that facilities, equipment, information and communication in the field of health care were accessible to persons with disabilities and to guarantee free access to medicines and medical supplies for such persons.

34. **Mr. Martin** asked what was being done to improve health outcomes for persons with intellectual disabilities; what efforts were made to ensure that such persons were aware of their right to vote; and whether information on how to vote was available in accessible formats such as Braille, sign language and Easy Read.

35. **Mr. Kabue** said that he would welcome more information on the services provided to persons with disabilities by the focal point on disability appointed by the Ministry of Health.

36. Noting that 626 persons with disabilities had joined the civil service since the introduction of the quota system, he asked what positions were held by those persons, at what level of government they were employed, how many of them were women and how many were from indigenous communities.

37. Lastly, he asked whether organizations of persons with disabilities were involved in monitoring the implementation of the Convention.

38. **Mr. Basharu** said that he would like to know what measures had been taken to support parents of children with disabilities and to ensure that parents with disabilities were able to raise their children in dignity. It would be helpful if the delegation could explain the

disparity between the minimum age for marriage, which was 20 years, and the voting age, which was 18 years.

39. **The Chair** asked whether the social protection benefits mentioned by the delegation were based on the human rights model of disability; whether civil servants working in the fields of international cooperation and foreign affairs had received training on avoiding derogatory language when referring to persons with disabilities; and when the State party planned to establish an independent monitoring mechanism, with the effective participation of a civil society organization representing all persons with disabilities, including those of indigenous origin.

The meeting was suspended at 11.20 a.m. and resumed at 11.55 a.m.

40. **Mr. Ghimire** (Nepal) said that basic, disaggregated data on persons with disabilities were collected through the national population and housing census and specific surveys, such as the national living standards survey 2010/11.

41. Under new legislation, the district offices of the Department of Women and Children were now primarily responsible for the collection of data on persons with disabilities. Those data would be compiled by the coordination and steering committees at the national level and used to design measures to protect and promote the rights of persons with disabilities.

42. The Ministry of Women, Children and Social Welfare and the offices attached thereto performed their work effectively.

43. The right to education, including special education and inclusive education, was legally enforceable under the Constitution and the Disability Rights Act of 2017. Legal remedies were available to all citizens of Nepal, including persons with disabilities, for violations of that right.

44. The bill on mental health would be reviewed and amended on the basis of open consultations with the relevant stakeholders, including persons with mental impairments.

45. Sign language interpreting was available in all courts. Training would be provided for sign language interpreters by the Access to Justice Commission, under an action plan that it was implementing in coordination with government bodies, civil society and the media.

46. The tax exemptions provided for in the Income Tax Act of 2001 were designed to promote the creation of an environment in which persons with disabilities could exercise their economic rights.

47. The Government intended to ratify the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled once it had taken the legal and institutional measures necessary for its implementation.

48. Disability issues had been incorporated into the fourteenth periodic plan, which established indicators relating to the Sustainable Development Goals, and into the action plan of the Access for Justice Commission.

49. **Mr. Paudyal** (Nepal), summarizing paragraphs 11, 12 and 56 of his country's replies to the list of issues, said that the political participation of persons with disabilities was provided for in domestic legislation and that efforts had been made to ensure that voting facilities and materials were accessible to such persons. Ballot papers were not yet available in Braille, however.

50. As to the right of persons with disabilities to participate in employment, the Civil Service Act of 1992 provided that 45 per cent of public service posts should be reserved for socially and economically marginalized groups and that 5 per cent of reserved posts should be filled by persons with disabilities. Indigenous persons with disabilities could apply for public service posts from among the 5 per cent to be filled by persons with disabilities; the percentage of posts reserved for their specific ethnic group or, if applicable, for women; or the whole range of posts available. Many persons with disabilities had applied and been selected for public service posts at all levels and in a variety of fields. In announcing public

service vacancies, the Public Service Commission specified the percentage of posts to be reserved for socially and economically marginalized groups, including persons with disabilities. The introduction of a quota system for public service employment had led to an increase in the participation of persons with disabilities in that sector. No other measure to promote the employment of persons with disabilities had proved as effective. The 626 persons with disabilities who had joined the civil service since 2007/08 had done so as a direct result of the quota system. In addition, tax exemptions of up to 20 per cent were granted to private sector enterprises that employed persons with disabilities.

51. The Disability Rights Act of 2017 provided for the equal participation of persons with disabilities in cultural and social activities, including sporting events. He referred Committee members to paragraph 57 of his country's replies to the list of issues for information on the various measures adopted by the Government to ensure the inclusion of persons with disabilities in such activities and events.

52. The myriad challenges facing Nepal as a less developed country had led the Government to prioritize poverty reduction, the acceleration of socioeconomic development and the improvement of the national infrastructure, all of which would facilitate the enjoyment of rights by all citizens, including persons with disabilities. Programmes to that end, under the fourteenth periodic plan and the National Policy and Plan of Action on Disability, were outlined in paragraphs 53 and 54 of the replies to the list of issues. The need to adopt poverty reduction measures had also been confirmed by the country's baseline report on the implementation of the 2030 Agenda for Sustainable Development.

53. The Government had worked to ensure that persons with disabilities and their representative organizations were active participants in national development programmes. Nepal had been the first country to fully incorporate the Sustainable Development Goals into its national development plans and policies, which included strategies for providing persons with disabilities with appropriate, needs-based training, increased employment opportunities and improved access to resources. Moreover, Nepal had undergone a voluntary national review at the high-level political forum on sustainable development in 2017, which had given new impetus to its efforts to implement the 2030 Agenda for Sustainable Development. The Government acknowledged that civil society, including disabled persons' organizations, had an important role to play in that process.

54. International cooperation, development partnership and foreign aid continued to play an important role in the country's development. International solidarity and support for countries in need was a prerequisite for the universal promotion and protection of human rights and the creation of the conditions necessary for the enjoyment of those rights by the population. Continued international cooperation would prove crucial for the development of appropriate infrastructures, education and health-care facilities and new technologies for persons with disabilities living in less developed countries such as Nepal.

55. **Ms. Aryal** (Nepal), referring to articles 24 and 33 of the Convention, said that the School Sector Development Plan 2016–2023, a long-term strategic programme endowed with an annual budget, which aimed at increasing the enrolment and retention rate of children with disabilities, had produced the results detailed in paragraph 46 of the replies to the list of issues. The Plan also included a strategy for gradually transforming special and residential schools into resource centres of inclusive mainstream schools. The Special Education Council, which came under the authority of the Ministry of Education and served as the monitoring mechanism for inclusive education, could provide additional financial support to special schools or resource centres that dispensed good quality education to persons with disabilities. One Nepalese university had begun to offer an inclusive education course at both the bachelor's and the master's level, with the aim of facilitating the access of persons with disabilities to higher education in the future.

56. She referred the Committee to paragraphs 60, 61 and 62 of the replies to the list of issues for a breakdown of the specific responsibilities exercised by the central and local government bodies responsible for monitoring implementation of the Convention and protecting and promoting disability rights.

57. **Mr. Upadhaya** (Nepal) said that the social protection provided to persons with disabilities included community housing, emergency housing, medication, assistive devices and attendance allowances.

58. He thanked the members of the Committee for the keen interest, enthusiasm and constructive spirit with which they had engaged with the delegation of Nepal and for the richness of the dialogue. Notwithstanding the time constraints, the delegation had endeavoured to provide a candid overview of its efforts to implement the Convention and of the areas in which more needed to be done to enable persons with disabilities to fully realize the rights enshrined in the Convention and in the Constitution of Nepal. Although the primary responsibility for implementing the Convention rested with States, the role of civil society, including organizations of persons with disabilities, and other partners was also crucial. For Nepal, a less developed country facing unique and unparalleled challenges, the importance of having sufficient means of implementation could not be overstated. The interactive dialogue with the Committee, which had yielded numerous pragmatic suggestions that could inform future policies and measures intended to benefit persons with disabilities, had only strengthened the Government's resolve to make further progress.

59. **Mr. Kim** Hyung Shik said that he wished to thank the delegation of Nepal for the positive and constructive dialogue and commended it on its openness in acknowledging shortcomings and possibilities for improvement. While the State party's commitment to implementing the Convention was encouraging, it needed to do more to strengthen cooperation and to consolidate the working relationship between the Government and organizations of persons with disabilities. The realization of the economic, social and cultural rights of persons with disabilities often required a greater commitment on the part of States parties in terms of mobilizing and allocating resources. Going forward, the State party should adopt an approach to implementing the Convention that accommodated the two different sets of rights enshrined in it: civil and political rights on the one hand, and economic, social and cultural rights on the other.

60. **The Chair**, thanking the delegation for the open and constructive dialogue, said that she hoped that the Committee's suggestions and recommendations would further guide the State party in its commitment to the rights of persons with disabilities. She was also grateful to Nepalese civil society for its excellent parallel reporting and for all the information that it had provided to the Committee.

The meeting rose at 12.50 p.m.